IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 2878 of 2006(O&M)
Date of Decision: 12.7.2007

Manga Masih and another ...Appellants

Versus

Gurdial Singh and another ....Respondent

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri R.S. Chauhan, Advocate, for the appellants.

HEMANT GUPTA, J.

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby their suit for permanent injunction on the basis of possession over the land in dispute, was dismissed.

One of the issues framed was `whether the plaintiffs have no right, title or interest in the suit land?'. Both the Courts have found that the plaintiffs have alleged title over the suit land on the basis of a Will, but no such Will has been produced on record. It was thus, found that the plaintiffs are not the owners of the suit land.

Learned counsel for the appellants has vehemently argued that the appellants have sought injunction on the basis of possession. Once, the possession of the plaintiffs is proved on record, the plaintiffs were entitled to decree for injunction. It is argued that the plaintiffs are recorded as co-owners in part of the suit land and tenants-at-will in another part, and such entries prove the possession of the plaintiffs.

The plaintiffs cannot seek injunction when the defendants are recorded as owners in the suit land. In the absence of any proof of title or interest over the suit land after an issue to such effect was framed in the present suit.

Consequently, I do not find any patent illegality or material irregularity in the findings recorded by the Courts below, which may give rise to any substantial question of law in the present appeal.

Hence, the present appeal is dismissed.

12-07-2007 (HEMANT GUPTA)
ds JUDGE